

MINUTES**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION**

HON. CHARLES S. COODY, MAG JUDGE AT Montgomery, Alabama

DATE COMMENCED: 10/25/06 AT 9:02 a.m. to 11:05 a.m.

DATE COMPLETED: 10/25/06 TO Digital Recorded

UNITED STATES OF AMERICA *

V. *

CASE NO.: 1:06CR197-MEF-CSC

RODERICK CHARLES MELVIN *

APPEARANCES:

GOVERNMENT DEFENDANT

Atty. Tommie Hardwick * Atty. Kevin Butler

*

COURT OFFICIALS PRESENT:

Court Room Deputy: Wanda Stinson

LAW CLERK: Corrie Long

Court Reporter: James Dickens

() NON-JURY TRIAL

(X) OTHER PROCEEDINGS: EVIDENTIARY HEARING RE: MOTION TO SUPPRESS

SEE MINUTES ATTACHED

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
Description	Evidentiary hearing on Motion to Suppress - 06cr197-MEF		
Date	10/25/2006	Location	Courtroom 4B
Time	Speaker	Note	
12:13:00 AM			
9 :03:00 AM	Bulter	Request to invoke the rule but request that the case agent and the investigator remain in the courtroom and that all other witness be excused;	
9 :03:02 AM	Court	Ok.	
9 :04:28 AM	Court	Informs that parties that normal have a court reporter for this proceeding, but it is not required; Parties informed to speak up and into the microphones and to proceed with the hearing;	
9 :04:31 AM	Atty. Hardwick	Calls Deputy Timothy Paul Crooks, Witness is sworn and seated; Discussion of the incident that happened on July 24, 2005;	
9 :05:48 AM	Atty. Butler	Addresses the court ask that the gov. expand on the witness background and credentials;	
9 :05:57 AM	Atty. Hardwick	Cont'd testimony; Discussion and review of Govt.'s Exhs.	
9 :11:11 AM	Atty. Butler	Those can admitted with no objection;	
9 :11:14 AM	Atty. Hardwick	We offer Govt. Exh. #1, 2, 3, 4, 5, 6, and 7;	
9 :11:37 AM	Court	Exhibits 1 thru 7 are admitted without objections;	
9 :11:39 AM	Atty. Hardwick	Testimony resumes; Discussion and review of exhibits; Discussion as to the stop of the vehicle;	
9 :20:41 AM	Court	Court reporter arrives;	
9 :20:41 AM	Atty. Hardwick	Testimony resumes;	
9 :22:13 AM	Atty. Butler	Objection as to line of questioning; Not contesting what was found after the stop; We are contesting everything up to the stop, whether there was cause for the stop;	
9 :22:26 AM	Court	Response; Could the officer stop the car on the bases of reasonable suspicion;	
9 :23:05 AM	Atty. Bulter	Response - yes;	
9 :23:19 AM	Court	Response as to criminal intent;	
9 :23:33 AM	Atty. Butler	Terry is applicable in this case;	
9 :23:37 AM	Court	Discussions as to contention s as to the search of the vehicle, seizure of the weapon; Your contesting whether the officers had legal authority to stop the vehicle;	
9 :23:53 AM	Attu. Butler	Yes sir. Response;	
9 :24:06 AM	Court	Question and discussion as to Rakas vs. Illinois;	
9 :24:27 AM	Atty. Butler	Response;	
9 :24:59 AM	Court	Response as to the issue of the stop;	
9 :25:04 AM	Atty. Butler	Response as to the position of the passenger in the vehicle;	
9 :25:31 AM	Court	Response that the evidence material in this case is what happened leading up to the stop;	
9 :25:53 AM	Atty. Hardwick	Response as to legal discussion;	
9 :26:24 AM	Atty Hardwick	Testimony resumes; Discussion and review of Govt. Exh. #4 and 5;	

9:28:45 AM	Atty. Butler	Cross - examination; Discussion of prior robberies that had taken place; Discussion of the "suspicious person "called received;
9:45:44 AM	Atty. Hardwick	Re- direct; Discussion of the clothing description;
9:47:30 AM	Atty. Butler	Re-cross;
9:55:20 AM	Atty. Hardwick	Re- direct;
9:55:40 AM	Court	Witness is excused;
9:55:42 AM	Atty. Hardwick	Calls Rebecca Hutto;
9:56:04 AM	Atty. Butler	Addresses the Govt's Counsel before witness enters courtroom;
9:56:51 AM	Atty. Hardwick	Witness is sworn and seated; testimony begins; Discussion of incident that occurred on July 24, 2005; Move to admit Gov. Exh. 8 & 9;
9:58:55 AM	Court	No objections, they are admitted;
9:58:57 AM	Atty. Hardwick	Cont'd testimony; Discussions and review of Govt. Exh. 8 and 9;
10:06:54 AM	Atty. Butler	Cross - examination; Discussion and review of Govt's Exh. 8;
10:13:31 AM	Court	Witness is excused;
10:13:39 AM	Atty. Hardwick	Calls Mr. John Herring; witness is sworn and seated; Discussions of deft seen at the Grimes Petro; Discussion and review of Gvt's Exh. 1;
10:20:12 AM	Atty. Butler	Cross - examination;
10:29:43 AM	Court	Question to witness as to whether deft entered the small church;
10:29:59 AM	Atty. Hardwick	No further questions for this witness;
10:30:14 AM	Court	Witness is excused;
10:30:19 AM	Atty. Hardwick	Calls Timothy Fitzpatrick, Agent ; witness is sworn and seated; Discussion and review of Govt. Exh. 10;
10:31:51 AM	Court	It's admitted;
10:31:59 AM	Atty. Hardwick	Cont'd testimony;
10:33:38 AM	Atty. Butler	Cross - examination;
10:35:39 AM	Court	Witness is excused;
10:36:15 AM	Atty. Hardwick	Govt. rest;
10:36:44 AM	Atty. Butler	Admit Deft. 1 & 2
10:36:52 AM	Court	They are admitted;
10:37:59 AM	Atty. Butler	Calls Re-calls Mr. John Herring; Deft is remained that is still under oath; testimony begins;
10:40:11 AM	Court	Witness is excused;
10:40:18 AM	Atty. Butler	Addresses the court; Calls Johnny Johnson, investigator with Federal Defenders office; witness is sworn and seated;
10:45:47 AM	Atty. Hardwick	Request that response be stricken;
10:45:59 AM	Court	Response;
10:46:21 AM	Atty. Butler	Response as to relevance;
10:46:40 AM	Court	Addresses argument;
10:47:19 AM	Atty. Butler	Response as to terry stops;
10:47:28 AM	Court	Witness is excused;
10:47:45 AM	Atty. Butler	Response; Move to exclude Officer Crooks testimony;
10:48:01 AM	Court	Response; The 2000 Census data for Grimes shows a population of 459 people; Discussion of incident;

10:49:08 AM	Atty. Butler	Response as to suspicious conduct;
10:49:18 AM	Court	Response;
10:49:29 AM	Atty Butler	States position;
10:49:53 AM	Court	Was he on private property;
10:49:53 AM	Atty. Butler	No evidence or testimony has been presented as to that;
10:49:56 AM	Court	A church is not private property?
10:50:02 AM	Atty. Butler	Do not know if he was in the public or private part of that church; Nothing was taken;
10:50:16 AM	Court	He went on Ms. Hutto property? went around to the back? he opened her door? Pursuant to Alabama law that may constitute a trespass;
10:50:27 AM	Atty. Butler	Response;
10:50:44 AM	Court	Is that sufficient to justify a Terry stop?
10:50:45 AM	Atty. Butler	Response;
10:52:15 AM	Court	Discussion as to a Terry stop of a person;
10:53:16 AM	Atty. Butler	Response; Discussion as to the information the police had;
10:54:57 AM	Court	Response to argument as to the nature of Terry;
10:55:44 AM	Atty. Butler	Response to hypothetical
10:55:55 AM	Court	Response as to the purpose of Terry;
10:56:16 AM	Atty. Butler	Response;
10:56:48 AM	Court	Response;
10:57:08 AM	Atty. Butler	Response;
10:57:33 AM	Court	Response as to Terry not exist;
10:57:45 AM	Atty. Butler	Response;
10:58:28 AM	Court	Response;
10:58:33 AM	Atty. Butler	Response;
10:58:56 AM	Court	We agree that this is about the stop;
10:59:20 AM	Atty. Hardwick	Govt's position;
11:02:16 AM	Atty. Butler	Response to govt's position;
11:03:34 AM	Court	Discussion as to racial overtone to this;
11:03:46 AM	Atty. Butler	Response;
11:04:09 AM	Court	Response;
11:04:16 AM	Atty. Butler	Response;
11:04:29 AM	Court	Somebody banged on the doors;
11:04:38 AM	Atty. Butler	Response;
11:05:36 AM	Court	Response;
11:05:50 AM	Court	Will take the matter under advisement; Court is recessed.

UNITED STATES DISTRICT COURT

MIDDLE

DISTRICT OF

ALABAMA

UNITED STATES OF AMERICA
V.
RODERICK CHARLES MELVIN

GOVERNMENT'S EXHIBIT LIST

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DEFENDANT'S EXHIBIT LIST

Case Number: 1:06CR197-MEF-CSC

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA

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CR NO.: 1:06CR197-MEF-CSC

RODERICK CHARLES MELVIN

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Defendant

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WITNESS LIST:

GOVERNMENT

DEFENDANT

1. Deputy Timothy Paul Crooks
2. Ms. Rebecca Hutto
3. Mr. John Herring
4. Mr. Timothy Fitzpatrick

5. John Herring
6. Johnny Johnson